

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET TG-091127
TRANSPORTATION COMMISSION,	)	
	)	ORDER 01
Complainant,	)	
	)	
v.	)	PREHEARING CONFERENCE
	)	ORDER;
WASTE MANAGEMENT OF	)	
WASHINGTON, INC., d/b/a WASTE	)	NOTICE OF MEDIATION
MANAGEMENT OF GREATER	)	(Wednesday, November 18, 2009,
WENATCHEE,	)	at 1:00 p.m.)
	)	
Respondent.	)	
	)	
.....	)	

- 1     **NATURE OF PROCEEDING.** On October 20, 2009, the Washington Utilities and Transportation Commission (Commission) filed a complaint against Waste Management of Washington, Inc., d/b/a Waste Management of Greater Wenatchee (Waste Management or Company) for billing improper charges to its customers. In the complaint, the Commission sought \$64,140 in penalties. On the same date, the Commission scheduled a prehearing conference for November 9, 2009.
- 2     **CONFERENCE.** The prehearing conference convened, as scheduled, at Olympia, Washington on November 9, 2009, before Administrative Law Judge Patricia Clark.
- 3     **PARTY REPRESENTATIVES.** Polly L. McNeill, Summit Law Group, Seattle, Washington, represents Waste Management. Jennifer Cameron-Rulkowski, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff (Commission Staff or Staff).<sup>1</sup> A complete list of party representatives and their contact information is attached to this Order as Appendix A.

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<sup>1</sup> In formal proceedings, such as this, the Commission's regulatory staff participates like any other party, while the Commissioners make the decision. To assure fairness, the Commissioner, the presiding administrative law judge, and the Commissioner's policy and accounting advisors do not discuss the merits of the proceeding with the regulatory staff, or any other party, without giving notice and opportunity for all parties to participate. *See RCW 34.05.455.*

- 4     **ALTERNATIVE DISPUTE RESOLUTION.** During the prehearing conference, the parties requested the use of the Commission's alternative dispute resolution services. The Commission supports the informal settlement of matters before it. The Commission considered the parties' request for alternative dispute resolution services and determined that it has sufficient staff resources in the Administrative Law Division to offer these services in this case. The Commission has assigned Administrative Law Judge Adam E. Torem to serve as a mediator in this matter. The parties agreed to hold a mediation session on Wednesday, November 18, 2009.
- 5     **NOTICE OF MEDIATION.** The Commission has scheduled mediation in this matter, to commence on **Wednesday, November 18, 2009, at 1:00 p.m., in Room 207 of the Commission's headquarters, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** Additional dates for mediation may be scheduled, as needed, and will be determined by the parties and Judge Torem during the mediation process.
- 6     **DISPUTED ISSUES.** The Company does not dispute that it billed customers for improper charges. The Company has undertaken efforts to rectify this issue by issuing credits to its customers. The Company does dispute the appropriateness of the penalty sought in this case. Therefore, the sole issue to be resolved in this matter is whether a penalty of \$64,140 should be assessed against the Company for billing its customers improper charges.
- 7     **PROCESS AND PROCEDURAL SCHEDULE.** The parties will undertake to resolve the disputed issues in this case through the alternate dispute process. In the event those efforts are unsuccessful, the parties proposed that this matter be heard on a paper record. The process proposed by the parties is reasonable and should be adopted. Given the limited issue in dispute, this case is most comparable to the proceedings before the Commission involving petitions for mitigation of penalty assessments. Petitions for mitigation are, at the request of the respondent, frequently heard on the basis of a paper record and that is a reasonable process in this matter.

- 8 The parties proposed a procedural schedule that is reasonable and should be adopted. The procedural schedule is as follows:

- Company Initial Filing December 2, 2009
- Staff Responsive Filing December 16, 2009
- Company Reply December 23, 2009

- 9 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file the original plus **seven (7) copies** of the unredacted versions of all pleadings, motions, briefs, and other prefiled materials. Parties must also file the original and 1 copy of any redacted version(s). These materials must conform to the format and publication guidelines in WAC 480-07-395 and WAC 480-07-460. The Commission prefers that materials be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

- 10 All filings must be mailed or delivered to the Executive Director and Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington 98504-7250. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.

- 11 **ELECTRONIC SUBMISSION OF DOCUMENTS.** Electronic versions of all documents must be filed in accordance with WAC 480-07-140(6). Specifically, all documents must be filed in .pdf (Adobe Acrobat) format, supplemented by a separate file in .doc (MS Word), .wpd (WordPerfect), .xls (Excel), or .ppt (Power Point) format.

- 12 A copy of all filings must be provided through the Commission's Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail delivery to [<records@utc.wa.gov>](mailto:records@utc.wa.gov). Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette or CD including the filed document(s). Parties must furnish electronic copies in MS Word 6.0 (or later) supplemented by a separate file in .pdf (Adobe Acrobat) format. Parties must follow WAC 480-07-140(5) in organizing and identifying electronic files.

- 13 According to WAC 480-07-145(6), the parties may electronically submit documents to the Commission provided the electronic submission is received by 3:00 pm on the filing deadline and the Commission receives the original and required number of copies by 12:00 pm on the following business day. Parties must submit documents through the Commission's Web Portal ([www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing)) or by e-mail to, and file an original, plus **seven (7) paper copies**, of the documents with the Commission by the following business day. Parties must provide courtesy copies of their electronic submissions to the presiding administrative law judge at [pclark@utc.wa.gov](mailto:pclark@utc.wa.gov) and to the parties to the proceeding.
- 14 **NOTICE TO PARTIES: A party who objects to any portion of this Order must file a written objection within ten (10) calendar days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. The service date appears on the first page of the order in the upper right-hand corner. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective November 12, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

PATRICIA CLARK  
Administrative Law Judge

<b>APPENDIX A</b>				
<b>Docket TG-091127</b>				
<b>PARTY</b>	<b>REPRESENTATIVE</b>	<b>PHONE</b>	<b>FACSIMILE</b>	<b>E-MAIL</b>
<b>Waste Management</b>	Polly L. McNeill Summit Law Group PLLC 315 Fifth Ave. S., Suite 1000 Seattle, WA 98104	206-676-7040	206-676-7041	pollym@summitlaw.com
<b>Commission Staff</b>	Jennifer Cameron-Rulkowski Assistant Attorney General 1400 S. Evergreen Park Dr. SW P.O. Box 40128 Olympia, WA 98504-0128	360-664-1186	360-586-5522	JCameron@utc.wa.gov